

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD 'A' BENCH, HYDERABAD.**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
SHRI L. P. SAHU, ACCOUNTANT MEMBER**

**ITA No.402/Hyd/2021
(Assessment Year : 2016-17)**

Smt. Indrani Prasad,
Hyderabad.
PAN AANPI5216K

.....Appellant.

Vs.

Asst. Commissioner of Income Tax,
Central Circle 3(2), Hyderabad.

.....Respondent.

Appellant By : Shri P. Murali Mohan Rao, C.A.

Respondent By : Shri Vijay Bhaskar Reddy, CIT-D.R.

Date of Hearing : 07.04.2022.

Date of Pronouncement : 08.04.2022.

O R D E R

Per Shri S.S. Godara, J.M. :

This assessee's appeal for Asst. Year 2016-17 arises from the Commissioner of Income Tax (Appeals)-11, Hyderabad's order dt.20.09.2021 passed in case No.10258/2019-20 in proceedings under Section 143(3) r.w.s. 153A of Income Tax Act, 1961 ('the Act').

Heard both sides. Case file perused.

2. Coming to the assessee's sole substantive grievance that both the lower authorities have erred in law and on facts in making undisclosed income addition of the alleged capital gains income of Rs.16,66,666 in the course of assessment dt.27.12.2019 as upheld in the CIT(A)'s order, learned counsel's first and former argument is that the very sale transfer deed herein stands annulled in hon'ble jurisdictional high court's detailed judgment dt.16.08.2018 and therefore, the impugned addition has no legs to stand.

3. The Revenue's case on the other hand is that the assessee has raised the foregoing argument for the first time before the tribunal which requires afresh factual verification.

4. We have given our thoughtful consideration to the preceding rival submissions and find merit in both parties' stands in principle. Case records prima facie suggest that hon'ble jurisdictional high court's common detailed judgment in W.P. Nos.11032, 11034 and 11037 of 2018 dt.16.08.2018 hereinabove has indeed quashed the

Revenue's action in issue therein. The fact also remains that whether or not the assessee's capital asset forming subject matter of transfer herein is covered under the said decision or not indeed requires the Assessing Officer's factual verification. We thus restore the instant issue back to the learned assessing authority for its fresh adjudication. We make it clear that in case it is found that the impugned transfer itself stands annulled, the impugned addition would be treated to be non-est since having no legs to stand. Ordered accordingly.

5. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open court on 8th April, 2022.

Sd/-

(L.P. SAHU)
Accountant Member

Sd/-

(S.S. GODARA)
Judicial Member

Hyderabad, Dt. 08.04.2022.

* Reddy gp

Copy to :

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2.	ACIT, Central Circle 3(2), Hyderabad.
3.	Pr. C I T (Central), Hyderabad.
4.	CIT(Appeals)-11, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.